

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GREGORY WESTHOFF,

No. 08 Civ 4336 (WCC)

Plaintiff,

- against -

STEFANI MIOTTO and KELLY GREEHAN,

Defendants.

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**AMENDED
ANSWER, AFFIRMATIVE
DEFENSES, COUNTERCLAIM
AND JURY DEMAND**

Defendant Stefani Miotto, by her attorney, Norman M. Block, Esq., answers the complaint of the plaintiff for herself, and not for defendant Kelly Greehan follows:

1. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the complaint.

2. Plaintiff admits that she is a resident of the State of New York, County of Westchester.

3. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the complaint.

4. Plaintiff admits the allegations contained in paragraph 4 of the complaint.

5. Plaintiff denies the allegations in paragraph 5 of the complaint.

6. Plaintiff admits the allegations contained in paragraph 6 of the complaint.

7. Plaintiff admits the allegations contained in paragraph 7 of the complaint.

8. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the complaint.

9. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the complaint.

10. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the complaint.

11. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the complaint.

12. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the complaint

13. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the complaint

14. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the complaint, except she admits that she testified.

15. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the complaint

16. Plaintiff admits the allegations contained in paragraph 16 of the complaint.

17. Plaintiff admits the allegations contained in paragraph 17 of the complaint.

18. Plaintiff admits the allegations contained in paragraph 18 of the complaint.

19. Plaintiff denies the allegations contained in paragraph 19 of the complaint.

20. Plaintiff admits the allegations contained in paragraph 20 of the complaint.

21. Plaintiff denies the allegations contained in paragraph 21 of the complaint but admits she had visited Steven.

22. Plaintiff denies the allegations contained in paragraph 22 of the complaint but admits that she would make requests for a hall pass.

First Cause of Action

False Arrest

23. This paragraph does not require a response.

24. Plaintiff denies the allegations contained in paragraph 24 of the complaint.

25. Plaintiff denies the allegations contained in paragraph 25 of the complaint.

Second Cause of Action

False Imprisonment

26. This paragraph does not require a response.

27. Plaintiff denies the allegations contained in paragraph 27 of the complaint.

28. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the complaint.

29. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 29 of the complaint.

30. Plaintiff denies knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the complaint.

31. Plaintiff denies the allegations contained in paragraph 31 of the complaint.

Third Cause of Action

Malicious Prosecution

32. This paragraph does not require a response.

33. Plaintiff denies the allegations contained in paragraph 33 of the complaint.

34. Plaintiff denies the allegations contained in paragraph 34 of the complaint.

35. Plaintiff denies the allegations contained in paragraph 35 of the complaint.

36. Plaintiff denies the allegations contained in paragraph 36 of the complaint.

37. Plaintiff denies the allegations contained in paragraph 37 of the complaint.

38. Plaintiff denies the allegations contained in paragraph 38 of the complaint.

39. Plaintiff denies the allegations contained in paragraph 39 of the complaint.

40. Plaintiff denies the allegations contained in paragraph 40 of the complaint.

41. Plaintiff denies the allegations contained in paragraph 41 of the complaint.

Fourth Cause of Action

Intentional Infliction of Emotional Distress

42. This paragraph does not require a response.

43. Plaintiff denies the allegations contained in paragraph 43 of the complaint.

44. Plaintiff denies the allegations contained in paragraph 44 of the complaint.

45. Plaintiff denies the allegations contained in paragraph 45 of the complaint.

46. Plaintiff denies the allegations contained in paragraph 46 of the complaint.

47. Plaintiff denies the allegations contained in paragraph 47 of the complaint.

Fifth Cause of Action

Negligent Infliction of Emotional Distress

48. This paragraph does not require a response.

49. Plaintiff denies the allegations contained in paragraph 49 of the complaint.

50. Plaintiff denies the allegations contained in paragraph 50 of the complaint.

51. Plaintiff denies the allegations contained in paragraph 51 of the complaint.

52. Plaintiff denies the allegations contained in paragraph 46 of the complaint.

Sixth Cause of Action

Prima Facie Tort

53. This paragraph does not require a response.

54. Plaintiff denies the allegations contained in paragraph 54 of the complaint.

55. Plaintiff denies the allegations contained in paragraph 55 of the complaint.

57. Plaintiff denies the allegations contained in paragraph 45 of the complaint.

Affirmative Defenses

58. The first, second, fourth and sixth causes of action are barred by the applicable Statute of Limitations.

59. All causes of action in the complaint fail to state a claim upon which relief may be granted.

60. All the alleged claims should have been brought as compulsory counterclaims pursuant to Rule 13(a) of the F.R.C.P. and are therefore barred.

Counterclaim

61. Defendant Stefani Miotto filed a lawsuit against the plaintiff in the United States District Court for the Southern District of New York, Case No. 07 Civ. 1033 (WCC).

62. Plaintiff filed the instant action knowing that it had no basis in law or fact, and that many of the claims are barred by the statute of limitations.

63. Plaintiff filed the instant action with the intent to frighten defendant Miotto so she would voluntarily discontinue her action against the plaintiff.

64. As a result of the plaintiff's conduct, defendant Stefani Miotto has suffered emotional distress and has been caused to expend attorneys fees for the purpose of defending this baseless action.

65. Plaintiff is liable to defendant Miotto for compensatory damages in an amount to be determined at trial.

66. Plaintiff is liable for punitive damages as a result of his intentional abuse of process, in an amount to be determined at trial.

Request for Rule 11 Sanctions

67. Because this action was brought for improper purposes and lacks any basis in law or fact, defendant Miotto seeks sanctions against the plaintiff pursuant to Rule 11 of the F.R.C.P.

Jury Trial Demand

68. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, defendant Miotto demands a trial by jury of all issues in this case.

Dated: Hawthorne, NY
June 6, 2008

/s Norman M. Block
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